



ACQUISITION AND
TECHNOLOGY

THE UNDER SECRETARY OF DEFENSE

3010 DEFENSE PENTAGON
WASHINGTON, DC 20301-3010

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MEMORANDUM FOR COMPONENT ACQUISITION EXECUTIVES

SUBJECT: Contracting for Applied Research

The Department of Defense (DoD) has a continuing need to acquire applied research in order to translate basic research into solutions for broadly defined military needs, short of major development efforts. Questions have been raised about the applicability of fixed price contracts to the acquisition of applied research. Although applied research, addressed in Federal Acquisition Regulation (FAR) Part 35, is generally suited to the use of cost-reimbursement types of contracts, some research requirements are suitable for acquisition with fixed price types of contracts, consistent with FAR Parts 35, 15, and 16, provided they can be defined with a degree of clarity sufficient to enable offerors to price the effort needed to achieve the required results without assuming undue risk. However, because they are specific in nature, applied research efforts do not fall within the definition of a "commercial item". They are conducted to advance the state of scientific knowledge and are not, therefore, preexisting items in any marketplace. For this reason, applied research is not suitable for acquisition under FAR Part 12.

Applied research efforts should not be confused with research-related services, such as repetitive efforts that can be priced on a per unit basis (e.g., certain laboratory tests), that may fall within the definition of "commercial services" suitable for acquisition under FAR Part 12. Market research can reveal whether such services fall within that definition by establishing whether the services are offered and sold competitively, in substantial quantities, in the commercial marketplace, based on established catalog or market prices for specific tasks performed and under standard commercial terms and conditions. Market prices mean current prices that are established in the course of ordinary trade between buyers and sellers free to bargain and that can be substantiated



through competition or from sources independent of the offerors.

Additionally, section 821 of the National Defense Authorization Act for Fiscal Year 2001 provides authority for services purchased under performance-based contracts to be treated as commercial items if certain conditions are met. The use of FAR Part 12 procedures is permitted if the contract or task order:

- Is valued at \$5 million or less;
- Sets forth specifically each task to be performed, and for each task: defines the task in measurable, mission related terms; and identifies the specific end products or output to be achieved;
- Is firm fixed price or fixed price with economic price adjustment, as defined under FAR Part 12;
- Is not issued under FAR Subpart 13.5; and
- Is issued to a source that provides similar services contemporaneously to the general public under similar terms and conditions.

This authority could apply to purchases of research-related services. Use of FAR Part 12 can simplify acquisitions and facilitate the participation of a broader array of commercial firms than might otherwise compete for such contracts.



MICHAEL W. WYNNE